

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF WEST VIRGINIA  
Wheeling

MICHAEL AVERY,

Petitioner,

vs.

**JUDGMENT IN A CIVIL CASE**

Civil Action No. 1:05-cv-13

K. J. WENDT, Warden,

Respondent.

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.
- ☒ **Decision by Court.** This action came before the Court. The issues have been considered and a decision has been rendered.

**IT IS ORDERED**, pursuant to F.R.C.P. 58, that judgment be entered. It is therefore

**ORDERED AND ADJUDGED** that the Court Affirms and Adopts Magistrate Judge's Report and Recommendation in its entirety. The Petitioner's 28 U.S.C. Section 2241 Petition is DENIED and this civil action is DISMISSED WITHOUT PREJUDICE and STRICKEN from the active docket of this Court.

Wally Edgell, Ph.D., Clerk

By



Deputy Clerk

Dated this 15<sup>th</sup> day of August 2005